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Liquidating Trust*

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Liquidating Trust*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

In re:	:	Chapter 11
	:	
CIRCUIT CITY STORES, INC., <u>et al.</u> , <sup>1</sup>	:	Case No. 08-35653-KRH
	:	
Debtors.	:	(Jointly Administered)
	:	
	:	

**LIQUIDATING TRUST'S MOTION FOR ORDER STRIKING DOCKET # 12918**

The Circuit City Stores, Inc. Liquidating Trust (the "Trust" and/or the "Liquidating Trust"), through its Trustee, Alfred H. Siegel, hereby moves the Court (the "Motion"), pursuant to sections 105 and 503 of title 11 of the United States Code (the "Bankruptcy Code"), Rules 2002 and 9007 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and this Court's Order Automatically Expunging Claims (Docket # 12402) (the "Expungement Order"), for the entry of an order automatically expunging the letter from Mr. Johannes F. de Wolf filed on or about April 10, 2013 (Docket # 12918) (the "de Wolf Pleading"). In support of the Motion, the Trust respectfully represents as follows:

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of their respective federal tax identifications numbers, are as follows: Circuit City Stores, Inc. (3875), Circuit City Stores West Coast, Inc. (0785), InterTAN, Inc. (0875), Ventoux International, Inc. (1838), Circuit City Purchasing Company, LLC (5170), CC Aviation, LLC (0841), CC Distribution Company of Virginia, Inc. (2821), Circuit City Properties, LLC (3353), Kinzer Technology, LLC (2157), Abbott Advertising Agency, Inc. (4659), Patapsco Designs, Inc. (6796), Sky Venture Corp. (0311), Prahs, Inc. (n/a), XSStuff, LLC (9263), Mayland MN, LLC (6116), Courchevel, LLC (n/a), Orbyx Electronics, LLC (3360), and Circuit City Stores PR, LLC (5512).

**JURISDICTION**

1. This Court has subject matter jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. Venue of these chapter 11 cases in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory predicates for the relief requested herein are Bankruptcy Code sections 105 and 503 and Bankruptcy Rules 2002 and 9007.

**RELIEF REQUESTED AND BASIS THEREFOR**

3. Notwithstanding various deadlines established by orders of this Court, various parties have continued to file claims (new, supplemental and/or amended) in this case. Indeed, the de Wolf Pleading appears to be an attempt to now assert a claim in this case.

4. On or about September 14, 2012, this Court, upon proper motion and due notice, entered the Expungement Order which provides in part as follows: “The Clerk of this Court is hereby directed to strike from its records and expunge all Excessively Delinquent Claims unless otherwise directed by further order of this Court and/or written instruction from the Trust.”

5. An Excessively Delinquent Claim is defined in the Motion and incorporated in the Expungement Order and herein as: “all claims filed ... with this Court on or after January 1, 2012.”

6. Based upon the foregoing, the Trust respectfully submits that the de Wolf Pleading falls within the definition of Excessively Delinquent Claim and, as a result, must be automatically stricken and expunged.

**NOTICE**

7. Notice of this Motion is being provided to parties-in-interest, specifically upon Mr. Johannes F. de Wolf, 5810 Fresno Ave., Richmond, CA 94804. In light of the nature of the relief requested, the Trust respectfully submits that no further or other notice is necessary under the circumstances.

**WAIVER OF MEMORANDUM OF LAW**

8. Pursuant to Local Bankruptcy rule 9013-1(G), and because there are no novel issues of law presented in the Motion and all applicable authority is set forth in the Motion, the Trust requests that the requirement that all motions be accompanied by a separate memorandum of law be waived.

**NO PRIOR REQUEST**

9. No previous request for the relief sought herein has been made to this Court or any other court.

**CONCLUSION**

WHEREFORE, the Trust respectfully requests that the Court enter an order, substantially in the form annexed hereto as Exhibit A, automatically striking the de Wolf Pleading from this Court's docket pursuant to the Expungement Order and granting other related relief as proposed in this Motion.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

Dated: May 14, 2013

TAVENNER & BERAN, PLC

/s/ Lynn L. Tavenner  
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*Counsel for the Circuit City Stores, Inc. Liquidating Trust*

-and-

Richard M. Pachulski (CA Bar No. 90073)  
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*Counsel for the Circuit City Stores, Inc. Liquidating Trust*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 14<sup>th</sup> day of May, 2013, a true and correct copy of the foregoing was served via first class mail, postage prepaid, and/or electronic delivery to:

Mr. Johannes F. de Wolf  
5810 Fresno Ave.  
Richmond, CA 94804

Robert B. Van Arsdale, Esquire  
Office of the United States Trustee  
701 East Broad Street, Suite 4304  
Richmond, VA 23219

/s/ Lynn L. Tavenner  
Lynn L. Tavenner, Esquire (Va. Bar No. 30083)  
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In re:	:	Chapter 11
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CIRCUIT CITY STORES, INC., <u>et al.</u> , <sup>1</sup>	:	Case No. 08-35653-KRH
	:	
Debtors.	:	(Jointly Administered)
	:	
	:	

**ORDER STRIKING PLEADING AT DOCKET # 12918**

Upon the Motion (the “Motion”) of the Circuit City Stores, Inc. Liquidating Trust (the “Trust”) for an Order Striking Docket # 12918; and the Court having reviewed the Motion; and the Court having determined that the relief requested in the Motion is in the best interests of the Trust, the beneficiaries thereof, and other parties in interest; and upon the record herein; and after due deliberation thereon; and good and sufficient cause appearing therefor, it is hereby

**ORDERED, ADJUDGED AND DECREED** that:

1. The Motion is GRANTED.

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of their respective federal tax identifications numbers, are as follows: Circuit City Stores, Inc. (3875), Circuit City Stores West Coast, Inc. (0785), InterTAN, Inc. (0875), Ventoux International, Inc. (1838), Circuit City Purchasing Company, LLC (5170), CC Aviation, LLC (0841), CC Distribution Company of Virginia, Inc. (2821), Circuit City Properties, LLC (3353), Kinzer Technology, LLC (2157), Abbott Advertising Agency, Inc. (4659), Patapsco Designs, Inc. (6796), Sky Venture Corp. (0311), Prahs, Inc. (n/a), XSSstuff, LLC (9263), Mayland MN, LLC (6116), Courchevel, LLC (n/a), Orbyx Electronics, LLC (3360), and Circuit City Stores PR, LLC (5512).

2. All capitalized terms not otherwise defined herein shall have the same meaning given to them in the Motion.

3. The Clerk of this Court is hereby directed to strike from its records and expunge Docket # 12918 in accordance with the prior Expungement Order unless otherwise directed by further order of this Court and/or written instruction from the Trust.

4. The Trust shall serve a copy of this Order on Mr. Johannes F. de Wolf, 5810 Fresno Ave., Richmond, CA 94804.

5. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation or interpretation of this Order.

Dated: \_\_\_\_\_  
Richmond, Virginia  
United States Bankruptcy Judge

\_\_\_\_\_  
The Honorable Kevin R. Huennekens

**WE ASK FOR THIS:**

TAVENNER & BERAN, PLC

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acaine@pszjlaw.com

*Counsel for the Circuit City Stores, Inc. Liquidating Trust*

**CERTIFICATION**

I hereby certify that the foregoing proposed Order has been either served on or endorsed by all necessary parties.

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